

REMARKS

The Examiner has identified three separate Invention Groups I, II and III in the application. In order to advance the prosecution of this application, Applicants hereby elect, with traverse and without prejudice, Invention Group I for prosecution on the merits, corresponding to claims 1-9, 14-16, 18 and 19.

Applicants respectfully submit that claims 10, 11, 20 and 24-26, corresponding to Invention II, are so close in construction to the claims corresponding to elected Invention I that the Examiner will necessarily need to search the art corresponding to Invention II in order to properly examine the claims of Invention I. For example, claim 10 and the other independent claims of Invention Group II are drawn to a combination of a sterile transfer container and a surgical instrument wherein the sterile transfer container is substantially identical to the structure defined in claim 1 and the other independent claims of Invention Group I. Therefore, for example, claim 10 only slightly differs from claim 1 in that claim 10 includes all of the elements of the sterile transfer container of claim 1 plus additional elements as may be necessary to make the structure of claim 1 operable with a surgical instrument powered by the battery intended to be contained in the sterile transfer container of claim 1. Similarly related are claims 20 and 24 of Invention Group II and claim 14 of Invention Group I.

The purpose of the claims to the combination (Invention II) is made clear when one realizes that the sterile transfer container of claim 1 (and claim 14) is designed to be operable with a surgical instrument in such a way that the instrument maintains the integrity of the sterile transfer container when it is in use. That is, the claimed structure on the surgical instrument (of Invention Group II) cooperates with the structure on the sterile transfer container (of Invention Group I) in order to insure that the latter remains sealed. Thus, any art relevant to surgical instruments using battery containers with various means for keeping them closed (i.e., Invention

II) would be relevant to the claims related to the sterile transfer container (i.e., Invention I). Accordingly, the Examiner would need to search such prior art related to Invention Group II in order to properly examine the claims related to Invention I.

Claims 10-13, 17 and 20 through 26 are hereby withdrawn subject to Applicants' right to file a divisional application at a later date and subject to reinstatement of these claims after the Examiner has had an opportunity to reconsider the foregoing remarks.